A

DR BERNADINE MALINI MARTIN

v.

MPH MAGAZINE SDN BHD & ORS AND ANOTHER APPEAL

B

COURT OF APPEAL, PUTRAJAYA
ZALEHA ZAHARI JCA
KN SEGARA JCA
RAMLY ALI JCA

C [CIVIL APPEAL NOS: W-02-1165-2004 & W-02-700-2005]
17 MAY 2010

TORT: *Defamation - Publication - Photograph of plaintiff as bride published in an advertisement in magazine without her consent - Application of correct test of 'ordinary reasonable fair minded reader' -*

D *Whether impugned publication derogatory of plaintiff*

CIVIL PROCEDURE: *Costs - Order on costs - Review of - Whether trial judge has discretion in reviewing order on costs - Whether exercised judiciously and fairly - Whether circumstances warranted depriving first*

E *and second defendant of costs*

Two appeals were filed together at the instance of the plaintiff. The first appeal was against the decision of the High Court dismissing the plaintiff's claim. Briefly, the first defendant was the publisher of

F 'Female' magazine ('the magazine') that ran a bridal gown promotion cum advertisement in its September 1995 issue. It was co-sponsored of the second defendant (a bridal boutique 'White & Lacy') and the third defendant (who ran a photo studio 'T.A.G Studio'). The impugned publication was that of a photograph of a

G bride, a beautiful woman in a bridal gown with a veil over her head with the words 'A Special Night' appearing prominently on the top of the page. It was conclusively proved that the photograph in the impugned publication was the plaintiff's photograph and its publication was without the plaintiff's consent. On the date of the

H impugned publication the plaintiff was a Government Medical Officer attached to the General Hospital Kuala Lumpur. The plaintiff commenced proceedings for defamation against the publisher as well as those named in the said publication. According to the plaintiff, the said publication portrayed her to be a woman

I of loose morals; an unsuccessful doctor who had to resort to do part time modelling to supplement her income. The trial judge found that the plaintiff's photograph as a bride was not 'sexually

provocative' and did not portray the plaintiff to be a woman of 'low character'. The trial judge then concluded that the said publication was not derogatory and dismissed the plaintiff's claim. The plaintiff's appeal against this decision was the subject matter of the first appeal.

The second appeal was against the decision of the High Court in reviewing the order of costs pronounced on 18 August 2004 that had deprived the first and second defendant of their costs and had only awarded the third defendant half costs although they had successfully resisted the plaintiff's claim. The first and second defendant were made liable to bear the plaintiff's costs in the following proportion, 80% and 20%, respectively. *Vide* letter dated 6 September 2004, parties were notified of the judge's intention to review the order of costs made against the third defendant. The first and second defendant had seized this opportunity to also apply to the High Court judge to review the order of costs made against them. The judge took the position that he had the power to review the earlier order on costs and awarded the third defendant full costs. As for the costs against the first and second defendant, the High Court judge maintained his earlier stand that they were not entitled to costs but made no order as to costs as against the first and second defendant. The net effect of this review was that the plaintiff was no longer to receive costs of the suit from the first and second defendant and to bear the full costs of the third defendant. The plaintiff/appellant submitted that the High Court had no power to review the order of costs pronounced. There was a cross appeal by the first defendant in the second appeal, who submitted that there was no compelling reason why costs should not be awarded to it.

Held (dismissing the first appeal; dismissing the second appeal; dismissing the first defendant/respondent's cross appeal)
Per Zaleha Zahari JCA delivering the judgment of the court:

(1) Applying the correct test to the photograph and the words complained of and giving them their natural and ordinary meaning in the context of a bridal promotion/cum advertisement/cum competition, and the prize the winner of the competition would win, the said publication could not and did not bear the meaning alluded to them by the plaintiff. The write-up and photograph read in context meant simply this - a statement of fact that a wedding night was not an ordinary one, but a special one. Thus the application of the correct test of an

A 'ordinary reasonable fair minded reader' resulted in the same conclusion as the trial judge. The impugned publication was not derogatory of the plaintiff. (paras 17 & 18)

(2) There was no basis whatsoever to draw an inference that the B person photographed was not successful in the profession she was in. The write up did not give to rise to a suggestion that the person in the bridal gown was a person who 'encouraged and/or condoned immoral activities and was lacking in virtue'. The suggestion that the said publication gave rise to an C implication that the person photographed did so 'to supplement her income' was indeed far fetched. A single appearance in a magazine certainly did not make one a 'model'. Thus, the impugned publication was not defamatory of the plaintiff and the decision of the judge dismissing the plaintiff's claim was D accordingly affirmed. (paras 18 & 19)

(3) There was no reason to interfere with the trial judge's discretion in reviewing the order on costs and in making the order as to costs which he did. It had not been shown that there had been an error of law, or the purported exercise of discretion was based E on grounds wholly unconnected with the cause of action. The trial judge had exercised his discretion judiciously and fairly. The circumstances of this case warranted depriving the first and second defendant of their costs, and the third defendant being awarded full costs. (para 26)

F

[Order accordingly.]

Bahasa Malaysia *Translation Of Headnotes*

G Dua rayuan telah difailkan bersama-sama oleh plaintif. Rayuan pertama adalah terhadap keputusan Mahkamah Tinggi menolak tuntutan plaintif. Secara ringkas, defendan pertama adalah penerbit majalah 'Female' ('majalah tersebut') yang telah menjalankan promosi dan pengiklanan pemakaian baju pengantin dalam isu H September 1995. Ia ditaja bersama oleh defendan kedua (butik baju pengantin 'White & Lacy') dan defendan ketiga (yang menjalankan studio gambar 'T.A.G Studio'). Penerbitan yang dipertikaikan mengandungi gambar seorang pengantin perempuan, wanita yang jelita memakai baju pengantin dengan kain jarang di atas rambutnya I dengan perkataan-perkataan 'Malam Istimewa' di bahagian atas mukasurat tersebut. Ia memang dibuktikan bahawa gambar di dalam penerbitan yang dipertikaikan itu adalah gambar plaintif dan

penerbitannya dibuat tanpa kebenaran plaintif. Pada tarikh penerbitan yang dipertikaikan itu plaintif adalah Pegawai Perubatan Kerajaan yang bekerja dengan Hospital Besar Kuala Lumpur. Plaintif memulakan prosiding fitnah terhadap pihak penerbit juga mereka yang dinamakan di dalam penerbitan tersebut. Menurut plaintif, penerbitan tersebut menggambarkan plaintif sebagai wanita yang tidak bermoral tinggi; seorang doktor yang tidak berjaya dan terpaksa menjadi peragawati sambilan untuk menolong pendapatannya. Hakim bicara mendapati bahawa gambar yang menunjukkan plaintif sebagai pengantin perempuan bukanlah 'provokatif secara seks' dan tidak menggambarkan plaintif sebagai perempuan yang tidak bermaruah. Hakim bicara seterusnya membuat kesimpulan bahawa penerbitan tersebut bukan satu penghinaan dan menolak tuntutan plaintif. Rayuan plaintif terhadap keputusan ini adalah halperkara di dalam rayuan pertama.

Rayuan kedua adalah terhadap keputusan Mahkamah Tinggi dalam membuat semakan perintah kos yang telah diberi pada 18 Ogos 2004 yang tidak memberi hak kos kepada defendan pertama dan kedua dan hanya memberi kos separuh kepada defendan ketiga walaupun mereka berjaya menolak tuntutan plaintif. Defendan pertama dan kedua diarahkan bertanggungjawab dan menanggung kos plaintif seperti berikut, 80% dan 20%, masing-masing. Melalui surat bertarikh 6 September 2004, pihak-pihak yang terlibat telah diberi notifikasi mengenai niat hakim untuk membuat semakan perintah kos yang telah dibuatnya terhadap defendan ketiga. Defendan pertama dan kedua telah mengambil kesempatan ini untuk memohon kepada hakim Mahkamah Tinggi untuk membuat semakan perintah kos yang dibuat terhadap mereka. Hakim telah memutuskan bahawa beliau boleh membuat semakan atas perintah yang terdahulu atas kos dan mengawardkan defendan ketiga dengan kos penuh. Bagi kos-kos terhadap defendan pertama dan kedua, hakim Mahkamah Tinggi mengekalkan keputusannya bahawa mereka tidak berhak mendapat kos tetapi tidak membuat perintah kos terhadap defendan pertama dan kedua. Kesan semakan ini adalah plaintif tidak lagi dapat menerima kos guaman dari defendan pertama dan kedua dan terpaksa tanggung kos sepenuhnya defendan ketiga. Plaintif/perayu berhujah bahawa Mahkamah Tinggi tidak mempunyai kuasa untuk membuat semakan perintah kos yang diberi. Terdapat rayuan balas oleh defendan pertama di dalam rayuan kedua, yang berhujah bahawa tidak terdapat alasan yang kukuh untuk tidak mengawardkan kos kepadanya.

A **Diputuskan (menolak rayuan pertama; menolak rayuan kedua; menolak rayuan balas defendan pertama/responden)**
Oleh Zaleha Zahari HMR menyampaikan penghakiman mahkamah:

B **(1)** Menggunapakai ujian yang betul kepada gambar dan perkataan-perkataan yang dipertikaikan dan memberi mereka makna yang semulajadi dan biasa dalam konteks promosi/pengiklanan/ pertandingan pengantin, dan hadiah pemenang pertandingan tersebut akan menangi, penerbitan tersebut tidak membawa
C makna seperti yang dituduh oleh plaintif. Penulisan dan gambar dibaca dalam konteks hanya bermakna - pernyataan fakta bahawa malam perkahwinan adalah malam yang luar biasa dan istimewa. Oleh itu, pemakaian ujian yang betul seorang 'pembaca yang biasa munasabah dan adil' membawa kepada
D kesimpulan yang sama seperti yang dibuat oleh hakim bicara. Penerbitan yang dipertikaikan tidak langsung menghina plaintif.

(2) Tidak terdapat asas untuk membuat inferens bahawa orang di dalam gambar itu tidak berjaya dalam kerjayanya. Penulisan
E tidak membangkitkan saranan bahawa wanita yang memakai baju pengantin adalah wanita yang 'mengalakkan dan/atau membiarkan aktiviti-aktiviti yang tidak bermoral dan tidak mempunyai akhlak yang tinggi'. Saranan bahawa penerbitan tersebut membangkitkan implikasi bahawa wanita dalam gambar
F itu telah melakukan sedemikian untuk 'menolong pendapatannya' adalah tidak masuk akal. Sekali muncul dalam majalah tidak membuatkan seseorang itu 'peragawati'. Oleh itu, penerbitan yang dipertikaikan tidak memfitnah plaintif dan keputusan hakim menolak tuntutan plaintif adalah diakui.

G **(3)** Tidak terdapat alasan untuk mencampurtangan dengan budibicara hakim bicara dalam membuat semakan perintah kos dan dalam membuat perintah kos. Tidak terdapat kesalahan dari segi undang-undang, ataupun menyamar sebagai pelaksanaan budibicara berdasarkan alasan-alasan yang tidak kena mengena
H dengan kausa tindakan. Hakim bicara telah melaksanakan budibicaranya secara penuh kehakiman dan secara adil. Keadaan kes ini mewajarkan tidak memberi defendan pertama dan kedua kos-kos mereka, dan defendan ketiga diberikan kos penuh.

I

Case(s) referred to:
Chee Kuan Cheng v. Chuo Kong Kah [1967] 1 LNS 21 FC ***(refd)***
KE Hilborne v. Tan Tiang Quee [1972] 1 LNS 49 CA ***(refd)***
Petroliam Nasional Bhd (Petronas) & Anor v. Cheah Kam Chiew [1986] 1 LNS 81 SC ***(refd)***
Seong Fatt Sawmills Sdn Bhd v. Dunlop Malaysia Industries Sdn Bhd [1984] 1 LNS 6 FC ***(refd)***

Legislation referred to:
Rules of High Court 1980, O. 59 r. 3(2)

For the appellant - Dato' VK Lingam (Pradeep Kumar with him); M/s Syarikat KL Rekhraj
For the 1st respondent - Mah Weng Kwai (Raymond Mah with him); M/s Mah Weng Kwai Seow & Megat
For the 2nd & 3rd respondent - Cheah Tien Eu; M/s Suhaimi Khor Zulkifli & Chang

[Appeal from High Court, Kuala Lumpur; Civil Suit No: S4-23-63-98]

Reported by Suhainah Wahiduddin

JUDGMENT

Zaleha Zahari JCA:

[1] In this judgment parties will be cited as they appear in the court below.

[2] We heard Appeal No. W-02-1165-2004 (the "1st appeal") and W-02-700-2005 (the 2nd appeal), both filed at the instance of the plaintiff, together. The 1st appeal is against the decision of the High Court dated 18 August 2004 dismissing the plaintiff's claim and the order of costs pronounced. The 2nd appeal is against the decision of the High Court judge dated 11 May 2005 in reviewing the order of costs pronounced on 18 August 2004. There is a cross appeal by the 1st defendant in the 2nd appeal.

[3] The unanimous decision of this court was to dismiss both appeals as well as the 1st defendant cross appeal. Our reasons are as follows.

The Claim

[4] The 1st defendant is the publisher of "Female" magazine ("the magazine"). It ran a bridal gown promotion cum advertisement in its September 1995 issue. It was co-sponsored of

the 2nd defendant (who ran a bridal boutique called "White & Lacy") and the 3rd defendant (who ran a photo studio named "T.A.G Studio").

[5] As the publication which is the subject matter of this appeal relates to the publication of a photograph and one paragraph in the said publication, sight of a copy of the impugned publication made available to us by the appellant's counsel at the hearing of these appeals was indeed of assistance to us in making a considered decision in these appeals. It is as follows:

[6] The impugned publication to an ordinary reader may be described thus: The photograph was that of a bride. A beautiful woman in a bridal gown with a veil over her head. The words "A Special Night" appears prominently on the top of the page. The paragraph which the trial court and, on appeal, this court, is concerned with is the paragraph following the words "A Special Night". It reads as follows:

> Nothing could be more special than the night of your wedding. From the trousseau to your walk down the aisle, all eyes are turned to you, you'll want everything to be just right.

[7] Other than this paragraph, the contents of the rest of the page consists of promotional statements of the co-sponsor, the 2nd defendant ("White and Lacy") and others with whom they are in association with in respect of hair styling and photography. The 3rd defendant was expressly mentioned as the professional photographer with which "White and Lacy" was associated with and the 3rd defendant has been expressly named at the bottom of the page. There is then a description of the grand prize which the winner of the competition would win, as well as the format as to the details of entries to the competition.

[8] It has been conclusively proved that the photograph in the impugned publication is the plaintiff's photograph and its publication was without the plaintiff's consent. On the date of the impugned publication the plaintiff was a Government Medical Officer attached to the General Hospital Kuala Lumpur. The plaintiff commenced proceedings for defamation against the publisher as well as those named in the said publication. The plaintiff claimed that the said publication was defamatory and derogatory of her. That the said publication portrayed her to be a woman of loose morals; an unsuccessful doctor who had to resort to do part time modelling to supplement her income.

Background

[9] The role played by the parties cited in the suit in the said publication was this.

[10] The 3rd defendant had given two rejected prints of the plaintiff's (a client of his) photograph as a record of the design of the wedding gown for the 2nd defendant's portfolio. The prints given were never intended for publication. The 3rd defendant had no knowledge that the photograph given would be published. He also had no prior notice of the write up accompanying the photograph. The 3rd defendant's involvement was only as a co-sponsor of the grand prize, ie, to provide photography shots to the winner of the competition.

[11] The 2nd defendant gave the plaintiff's photograph which he received from the 3rd defendant to the 1st defendant. Between the 1st and 2nd defendant, the evidence shows that both knew of the necessity to obtain the plaintiff's consent prior to its publication. Each blamed the other for the failure to obtain such consent prior to its publication.

Whether The Combined Effect Of The Photograph And Write Up Was Defamatory Of The Plaintiff?

[12] In respect of the "Female" magazine generally, the judge was of the view there was "nothing vulgar or sleazy" about this magazine. On the contrary the trial judge ruled that the magazine was "a respectable magazine that caters to the needs and interests of women in general".

[13] The judge then made the following findings: The plaintiff's photograph as a bride in a wedding gown was not "sexually provocative". The photograph does not portray the plaintiff to be a woman of "low character". The write up accompanying the photograph, read in the context of a bridal promotion with reference to a special package co-sponsored by a bridal boutique and a photography studio, did not relate to any immoral activity or lack of virtue on the part of the plaintiff. The judge was of the view that the plaintiff and her witnesses had "grossly distorted and exaggerated" the meaning to be ascribed to the words in the first paragraph of the publication.

[14] The judge then concluded that the said publication was not derogatory of the plaintiff. The plaintiff's claim against the defendants was then dismissed. On costs, as against the 1st and 2nd defendant, the trial judge did not award them costs notwithstanding the fact that they had successfully resisted the plaintiff's claim. He instead made the 1st and 2nd defendant liable to bear the plaintiff's costs in the following proportion, 80% and 20%, respectively. In respect of costs of the 3rd defendant, the trial judge considered it appropriate to only award him half costs. The plaintiff's appeal against this decision is the subject matter of the 1st appeal.

[15] According to the appellant's counsel the trial judge had applied the wrong test. The judge had erred by applying his legal mind and by giving his own legal interpretation to the impugned publication/words instead of applying an "ordinary, reasonable fair minded reader" test.

[16] From the judgment it does appear that in appraising the impugned publication the judge approached it from his own perception and not that of an "ordinary, reasonable fair minded reader". Be that as it may we are of the considered opinion that no useful purpose would be served by sending this case back for re-trial. This court is in as good a position as the trial judge to apply the correct test and determine what is the effect of the photograph, and the meaning of the words complained of, to an "ordinary reasonable fair minded reader" in the context in which it appeared.

[17] Applying the correct test to the photograph and the words complained of and giving them their natural and ordinary meaning in the context of a bridal promotion/cum advertisement/cum competition, and the prize the winner of the competition would win, in our considered opinion the said publication cannot and does not bear the meaning alluded to them by the plaintiff. The write-up and photograph read in context meant simply this a statement of fact that a wedding night was not an ordinary one, but a special one. The following words then invites a prospective bride to imagine herself walking down the aisle, the focus of attention of all those present, and the desire of such a prospective bride on such an occasion for everything to turn out perfect (From the trousseau to your walk down the aisle, all the eyes are turned to you, you'll want everything to be just right).

[18] Thus, the application of the correct test of an "ordinary reasonable fair minded reader", results in the same conclusion as the learned trial judge. The impugned publication was not

derogatory of the plaintiff. We agree with the finding of the trial judge that there was no basis whatsoever to draw an inference that the person photographed was not successful in the profession she was in. We agree with the trial judge that the write-up certainly does not give rise to a suggestion that the person in the bridal gown was a person who "encouraged and/or condoned immoral activities and was lacking in virtue". The suggestion that the said publication gives rise to an implication that the person photographed did so 'to supplement her income' was indeed far fetched. A single appearance in a magazine certainly does not make one a "model".

[19] In view of our decision being in accord with that of the trial judge, that the impugned publication was not defamatory of the plaintiff, the decision of the learned judge dismissing the plaintiff's claim was accordingly affirmed.

Costs

[20] As earlier stated in this judgment, although the 1st and 2nd defendant had successfully resisted the plaintiff's claim, the trial judge had by order dated 18 August 2004, deprived them of their costs. They were instead made jointly liable to bear the plaintiff's costs on an 80:20 basis. As for the 3rd defendant, who had also successfully resisted the plaintiff's claim, he was only awarded half costs. In short, on the facts and circumstances of this case the learned High Court judge deemed it fit, in exercise of his discretion, to depart from the general rule of "costs following the event".

[21] A trial judge certainly has the power to make such an order, for costs not to follow the event, by reason of the express words "except where it appears to the court that in the circumstances of the case some other order should be made" in O. 59 r. 3(2) of the Rules of High Court 1980.

[22] The record shows that less than three weeks after delivering the decision on 18 August 2004, *vide* letter dated 6 September 2004, parties were notified of the judge's intention to review the order of costs made against the 3rd defendant and to appear before him on 14 September 2004. It would thus appear that having made the order on costs which he did, the trial judge had second thoughts in awarding the 3rd defendant only half costs instead of full costs. The record shows that the 1st and 2nd defendant, by their respective

letter dated 13 September 2004, seized this opportunity to also apply to the High Court judge to review the order of costs made against them.

[23] Parties were given the fullest opportunity to submit before the trial judge on whether the order as to costs pronounced on 18 August 2004 should be reviewed. The judge took the position that he had the power to review the earlier order on costs. The 3rd defendant who was awarded half costs was then awarded full costs. As for costs against the 1st and 2nd defendant, the High Court judge maintained his earlier stand that they were not entitled to costs. Be that as it may, he deemed it fit to review the order on costs against them. Instead of being jointly liable to pay the plaintiff's costs on 80:20 basis, he made no order as to costs as against the 1st and 2nd defendant. The net effect of this review was, the plaintiff was no longer to receive costs of the suit from the 1st and 2nd defendant, and to bear the full costs of the 3rd defendant.

[24] The appellant's counsel submitted that the High Court judge had no power to review the order of costs pronounced on 18 August 2004. Having made the order which the learned judge did, he was *functus officio*. He further submitted that the court should not have entertained the 1st and 2nd defendant's application to review the order of costs made against them. An aggrieved party dissatisfied with any order made against them must do so by way of an appeal to the Court of Appeal.

[25] Counsel for the 1st respondent submitted there was no compelling reason to depart from the general principle, upon dismissal of the plaintiff's claim, that costs follow the event pursuant to O. 59 r. 3(2) of the Rules. Substantial work, time and effort had been expended by the 1st defendant to defend the suit. There were no compelling reasons why costs should not be awarded to the 1st defendant. The 2nd respondent's counsel adopted this submission.

[26] Our decision on the appeal in respect of the order on costs are as follows: We agree that the general principle envisaged by the rules is for costs to follow the event; that the successful party is entitled to be paid his costs except when it appears to the court that, in the circumstances of the case, some other orders should be made. We accept the proposition that an order can be reviewed on

the judge's own motion or on the application of a party until such time as the order has been perfected. The judge retains control over the case until the order giving effect to his judgment is formally completed. (See *Chee Kuan Cheng v. Chuo Kong Kah* [1967] 1 LNS 21 Federal Court; *Seong Fatt Sawmills Sdn Bhd v. Dunlop Malaysia Industries Sdn Bhd* [1984] 1 LNS 6).

[27] An appellate court seldom interferes in the question of costs, and if they do so, it is done reluctantly. This is because the court below has an absolute discretion except that that discretion must be exercised judicially. Wee Chong Jin CJ in *KE Hilborne v. Tan Tiang Quee* [1972] 1 LNS 49 said:

> It has long been well settled that costs are in the discretion of the court. It has also long been well settled that an appellate tribunal is not entitled to interfere with a discretion exercised by a lower court unless it is clearly shown that the discretion has been exercised on wrong principles ...

[28] In *Petroliam Nasional Bhd (Petronas) & Anor v. Cheah Kam Chiew* [1986] 1 LNS 81 the Supreme Court ruled that the grounds under which the exception conferred under O. 59 r. 3(2) of the Rules is to be exercised must be grounds connected to the cause of action.

[29] In the present case the learned judge in refusing costs to the 1st and 2nd defendant held:

> In my judgment, in the present case, on the issue of costs, there are special grounds connected with the cause of action. The cause of action concerned the unauthorized publication of the plaintiff's photograph in a magazine meant for public circulation. To my mind, it was unethical and morally wrong for the 1st and 2nd defendants to have published the plaintiff's photograph for the purpose of their commercial promotion without her consent. It was unwarranted invasion of the plaintiff's privacy. It is unfortunate for the plaintiff, that the law of this country, as it stands presently, does not make an invasion of privacy an actionable wrongdoing (it is actionable under the law of some other jurisdictions, for example, in the United States).

[30] We see no reason to interfere with the trial judge's discretion in reviewing the order on costs and in making the order as to costs which he did. It has not been shown that there has been an error of law, or the purported exercise of discretion was based on grounds

A wholly unconnected with the cause of action. We are satisfied that the trial judge had exercised his discretion judiciously and fairly. We agree that the circumstances of this case warrant depriving the 1st and 2nd defendant of their costs, and the 3rd defendant being awarded full costs.

B

[31] For the above reasons the unanimous decision of this court was to dismiss the 1st appeal with costs. The deposit to be divided equally between the defendants/respondents to account of costs. As for the 2nd appeal, as against the 1st and 2nd defendant/respondent,
C the appeal was dismissed and 1st defendant/respondent's cross appeal was also dismissed. The 2nd appeal as against the 3rd defendant/respondent was also dismissed. The decision of the High Court on costs as varied by order dated 11 May 2005 was affirmed. It is further ordered in respect of the 2nd appeal that there be no order
D as to costs. The deposit to be refunded to the appellant.

E

F

G

H

I